IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 152 of 1993.

Date of Decision: November 15, 2007.

State of H. P. Appellant.

Versus

Jagat Ram Respondent.

Coram

Hon'ble Mr. Justice Surjit Singh, J.

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]?

For the appellant : **Mr. S.D. Vasudeva, Addl. Advocate General with Mr. D.S. Nainta, Dy. Advocate General.**

For the respondent : **Mr. Jagan Nath, Advocate vice counsel for the Respondent.**

Surjit Singh, J. (Oral)

Heard and gone through the record. Respondent Jagat Ram was sent up for trial for offences punishable under Sections 409, 468 and 471, I.P.C for allegedly committing various acts of embezzlement and forgery, while working as Manager, Himachal Khadi Mandal Cotton Production Centre, Dulehar. He allegedly misappropriated a sum of rupees 36, 833.60 paise. The alleged acts of misappropriation and forgery came to light when audit was conducted.

The prosecution examined twelve witnesses to prove the charge. The respondent took the plea that he had been falsely implicated in the case by PW1 Roop Lal, the Area Organizer of H.P. Khadi Mandal, Hamirpur because he was on inimical terms with him and that the audit

[1] Whether reporters of the Local papers are allowed to see the judgment? Yes.

report had been manipulated by the said witness through Jagmohan Singh (PW4) and his audit team members.

The trial Court has simply discussed the plea of the respondent about the enmity between him and PW1 Roop Lal and that the audit report on the basis of which the case is registered, is manipulated. It has not touched the evidence of the prosecution with respect to the allegation of misappropriation and forgery. The fate of the case rested not only on the audit report which too has not been analysed by the trial Court, but the evidence which the prosecution adduced during the course of the trial. The trial Court has just not taken into account such evidence adduced by the prosecution. If the evidence adduced by the prosecution proves the allegation of misappropriation and forgery, the enmity of PW1 Roop Lal with the respondent becomes irrelevant for determining whether the offences, the respondent had been charged with, were committed or not.

For the foregoing reasons, we set aside the judgment of the trial Court and remand the case with the direction that the matter be decided on merits by considering, examining and analyzing the prosecution evidence. The case being an old one, we direct that it shall be heard and finally disposed of by 31st January, 2008. The record of the trial Court with a copy of this judgment be sent back to the trial Court immediately.

(Surjit Singh), J.

(Surinder Singh), J.

November 15, 2007.
(bm)